

the inquiry on the B.M.A. Ethical Committee's report on advertising, published on April 23, 1960. This could not have guided him in 1959, when he wrote his book. Furthermore, the B.M.A. permitted itself great latitude in interpreting its own report so far as *Family Doctor* was concerned. Dr. Gardiner referred to issues of *Family Doctor* and also to a list of pamphlets sponsored by *Family Doctor* and exhibited for sale in chemists' shops. He stated that these publications were in principle no different from his. When asked for an example of something that overstepped the rule against advertising, Dr. Gardiner replied that an advertisement paid for in a paper or on television would be wrong.

Doctors, Dr. Gardiner contended, could write books in whatever style they liked. They were doing it all the time. The only criterion was that a doctor should have something to say. If a doctor wrote a book as an authority under his own name, he could not avoid telling the public that he was an authority.

Of the suggestion in the Central Ethical Committee's report that practitioners in difficulty as to whether a proposed course of action was advertising should seek guidance from the Secretary of the B.M.A., Dr. Gardiner said it was impertinent for the B.M.A. to decide to judge the ethics of doctors, for not all doctors belonged or wished to belong to the B.M.A.

Same Standards for All

Counsel for the G.M.C., addressing the Privy Council, said that the advertising alleged in Dr. Gardiner's case was an example of indirect advertising. Many who sought publicity could secure it better by an unpaid than a paid advertisement.

Dr. Gardiner had relied on Lord Jenkins's statement in *Felix v. General Dental Council* (*The Times*, May 12, 1960) that an honestly held opinion, even if wrong, could not amount to infamous or disgraceful conduct. Counsel submitted that that statement was subject to qualification and depended very much on the facts. In Dr. Gardiner's case the question was whether he advertised directly or indirectly for the purpose of promoting his own advantage.

Counsel continued that it would be wholly wrong that their Lordships should be left with the impression Dr. Gardiner had given them that the G.M.C. was imposing one standard for certain medical writers and another for him. Shortly after the sitting of the Disciplinary Committee in Dr. Gardiner's case action had been taken by the G.M.C. against Sir John Peel, Dr. Stafford-Clark, Mr. Dickson Wright, and the late Sir Harold Gillies. Following an explanation, these proceedings had been disposed of. At about the same time as the proceedings against Dr. Gardiner, proceedings had been taken against seven plastic surgeons, members of the British Association of Plastic Surgeons. Those proceedings had been adjourned pending the decision of the present appeal. Counsel was reported by *The Times* as saying that, if the appellant's submission that advertisement was permissible provided it was not paid for and consisted of opinions honestly held was accepted by the Privy Council, the whole procedure of the G.M.C. would change and proceedings against the seven plastic surgeons would not go on. Counsel stated that Dr. Gardiner was contending for the proposition that if he had a proper message for the public it did not matter what language he used, to what extent he drew attention to his own skill, or through what medium the message was passed: the G.M.C. did not accept that proposition.

Powers of G.M.C.

Having been asked by Lord Denning whether the G.M.C. had any power to reprimand, counsel replied that it had not: if it found infamous conduct, it could postpone the decision for 12 months, or erase the name, or do nothing.

The postponement of the decision, the so-called probation order, had been used generally in cases of convictions for drunken driving and dishonesty, usually when the doctor expressed great regret for his action. The present case was quite different, in that Dr. Gardiner had stoutly maintained throughout that he was entitled to do what he had done, and knew what he was doing. He had expressed no regret.

Opinion Reserved

Counsel made several references to passages in the book on which he relied, and which he contended called attention to the author's skill and deprecated that of others, and, after Dr. Gardiner had replied, the hearing was adjourned on April 17 for the Privy Council to take time to consider its advice to Her Majesty.

Dr. Theodor Werner has entered an appeal against the High Court judgment in the case of Miss Alice Landau, who was awarded £6,000 on her claim that she had been negligently treated by Dr. Werner (*Journal*, March 18, p. 835).

Medical Notes in Parliament

PEERS SEEK GREATER PRECISION IN ROAD TRAFFIC BILL

[FROM OUR PARLIAMENTARY CORRESPONDENT]

Lord CHESHAM, Parliamentary Secretary to the Ministry of Transport, was certainly not mistaken when he forecast, in introducing the Road Traffic Bill for second reading on April 13, that the drink and driving proposals in Clauses 1 and 2 would give rise to a good deal of discussion. The ensuing debate was mostly concentrated on them, and considerable objection was taken to the proposed new definition of "impairment" to drive, to the absence of any definition of the amount of alcohol in the blood, and to the potential effect of a refusal to take a test.

Lord Chesham accepted that even small doses of alcohol affected driving skill and judgment, and that alcohol contributed to far more accidents than the official figure of 0.57% indicated. The new Bill, with its reference to ability to drive properly being "for the time being impaired" due to alcohol, was likely to bite where the interpretation at present often given to the law would not. Clause 2 gave for the first time statutory recognition of chemical tests as a means of establishing the quantity of alcohol in a person's system. The use of chemical tests was not new, and the results of such tests were frequently used in evidence now. The prosecution would have to establish, as now, that the evidence did not go further than was scientifically warranted by the facts. The Government hoped that the combined effect of Clauses 1 and 2 would be to make it easier to secure convictions in cases where conviction was justified by the facts.

Safe, Sensible, and Simple

Lord TAYLOR concentrated on the technical aspects of Clause 2, because "serious personal decisions affecting a great many people depend on these technical matters." These tests, he said, showed not whether a person was drunk but that he had been drinking. They showed the amount that he had drunk, and from this amount it could be deduced with fair certainty whether his capacity to drive safely had been impaired. He hoped the clause would not be modified. It was the safest, most sensible, and simplest definition. He thought it entirely right.

He was insistent that the results of measurement of alcohol in the blood should all be expressed in one way,

not in percentages but in milligrammes of alcohol per 100 millilitres of blood. He hoped that the clause would require the making of regulations about how the results were expressed and about the tests themselves. The breathalyser was very accurate provided that it was properly standardized, that it was used by a trained technician, and that it was properly serviced and tested. It would be most unwise to issue the machine to police stations with a book of instructions; the scheme must be carefully organized. There must also be standardized procedure for tests on blood. The analysis itself, according to the Bill, was to be made by the public analysts. In Lord Taylor's opinion this should be done by the forensic science laboratories, who had already standardized two methods, and perhaps a few public analysts. He hoped that regulations would prescribe not a generality of centres but specific centres at which these tests should be carried out. The theoretical objection to urine tests, that the specimen might represent something that had happened three or four hours previously in terms of blood alcohol, was not valid. Alcohol in the urine very quickly equilibrated with the alcohol in the blood through the blood vessels in the walls of the bladder. Agreement between the specimen passed at the police station and the blood was very high. So good was it, and so easy was it to obtain a specimen of urine, that where this work was being done regularly it was seldom necessary to take a blood specimen. For some reason the Bill described urine as water. This was not only Grundyesque but technically dangerous, and the Bill should be made precise.

Arrangements for Clinical Examination

In his opinion it was necessary and desirable in the public interest to retain clinical medical examinations, recognizing their grave limitations and hopeless imprecision when it came to precise definitions of drunkenness. Their value was to exclude other conditions which might cause confusion. The police did not like them, nor did the doctors. They were imprecise; they often occurred at two or three o'clock in the morning; and doctors inexperienced in court work often got a tough time from defending counsel and were made to look foolish in public. The simple answer was for the police in every area to pay a proper retaining fee to one doctor, the police surgeon, who would do this unpleasant work regularly.

Put a Figure in the Bill

The BISHOP OF CARLISLE, who acknowledged that the B.M.A. booklet *Relation of Alcohol to Road Accidents* had convinced him that chemical tests were reliable, and said he would much prefer them to relying on human opinion formed on clinical examination, asked that a figure should be put in the Bill indicating the blood alcohol concentration at which significant impairment might be expected—the B.M.A. Committee's report mentioned 50 mg. of alcohol in 100 ml. of blood as the highest that could be accepted as entirely consistent with the safety of other road users—and also that it should be translated into language which ordinary people could understand.

Lord DENNING also wanted to see a stated quantity in the Bill. Counsel would produce the B.M.A. document, he said, and cross-examine the analyst. He would say to him, "You can never be sure about these figures; the motorist may be suffering from shock," and cast doubt on the doctor's evidence, enough to leave the jury in doubt. It would be much more effective, either in the Bill or by regulation, to give a reasonable criterion to show with reasonable certainty that a motorist was under the influence of drink. He thought the Bill should be strengthened by making the tests compulsory, and by making the offence "impairment to an appreciable extent," otherwise Clauses 1 and 2 were merely a restatement in other words of the effect of the present law. Juries did not like imprisonment for a first offence and where there had been no injury. If the penalty were made disqualification it might make a great difference in the enforcement of the law.

Compulsion Rejected

The EARL OF DUNDEE, Minister without Portfolio, who agreed in his reply to the debate on April 17 with the description that had been applied to the Bill as a legislative exercise in behaviourism, said there could not be a conviction for drunken driving on the tests alone, the person must have shown signs of intoxication or bad driving likely to be due to intoxication. The tests were strictly circumstantial evidence; it remained for the prosecution to establish that the ability of the accused person to drive properly was impaired. He thought it would be wrong to insist that a driver must have a blood test. The Government did not yet have the evidence they would like about the accuracy of breathalysers abroad. The Minister was simply providing for accurate instruments in anticipation.

Universities and Colleges

UNIVERSITY OF CAMBRIDGE

In Congregation on March 25 the following degrees were conferred:

M.D.—J. K. F. Mason.
M.CHIR.—H. Sunderland (by proxy), W. M. Keynes, K. L. Williams.
M.B.—I. F. Brockington, R. J. Heald, J. S. Kirkham, M. J. Leverton.
L. P. Martin, H. R. Patterson, A. J. Whitworth.

UNIVERSITY OF GLASGOW

Sir Russell Brock has been appointed Macewen Memorial Lecturer in Surgery for 1961.

The following appointments are announced: Dr. Christina C. McEwan, Lecturer in Public Health; Dr. M. A. F. Smith, Lecturer in Medical Genetics; Dr. D. A. Koutras, temporary Lecturer in Medicine at the Western Infirmary; Dr. S. G. B. Innes, Assistant in Materia Medica; and Jennifer Nisbett, Research Assistant in Medicine at the Western Infirmary.

Dr. W. A. Cramond, Honorary Lecturer in Psychological Medicine, has resigned, on his appointment as Consultant in Laboratory Medicine at Ruchill Hospital.

UNIVERSITY OF DUBLIN

SCHOOL OF PHYSIC, TRINITY COLLEGE

At the recent examination held by the University, the following were awarded the Diploma in Gynaecology and Obstetrics: Miss Usha Bajaj, Y. V. Dave, E. J. T. Giblin, R. W. J. R. James, Miss Nafees J. Koraishy, I. El. A. Aboul-Magd, H. B. Miller, Miss Sulochana Samuel.

UNIVERSITY OF LONDON

Dr. F. J. C. Roe, Senior Lecturer at London Hospital Medical College, has been appointed to the University Readership in Experimental Pathology, tenable at the Institute of Cancer Research: Royal Cancer Hospital.

The title of Reader in Metabolic Diseases in the University has been conferred on Dr. C. L. Cope in respect of his post at the Postgraduate Medical School of London.

The title of Reader in Experimental Pathology in the University has been conferred on Dr. H. K. Weinbren in respect of his post at the London Hospital Medical College.

UNIVERSITY OF BRISTOL

Dr. W. K. Metcalf has been promoted to Senior Lecturer in Anatomy.

ROYAL COLLEGE OF SURGEONS OF ENGLAND

FACULTY OF ANAESTHETISTS

In the *Journal* of March 11 (p. 757) the name of one of the successful candidates at the final F.F.A.R.C.S. examination in January was printed as Joan H. Breed. The name of the successful candidate was, in fact, John H. Breed.

ROYAL COLLEGE OF PHYSICIANS OF IRELAND

At a meeting of the College held on March 24, the President, Dr. R. E. Steen, admitted the following candidates to the Licence in Medicine and Midwifery of the College: M. J. Cox, H. A. Fenton, G. R. Gupta, T. J. E. Hynes, J. W. Laing, O. E. Mullen, K. S. Vig.